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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 8TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR. JUSTICE V.P. MOHAN KUMAR

WRIT PETITION NO: 2246/1998

AND

WRIT PETITION NO: 1732/1998

BETWEEN :

W.P. NO: 2246/1998

Sanganna,
s/o Eshwarappa Nandoor,
38 years, R/o Tilgol,
Post, Taluk & Dist; Gulbarga.

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...Petitioner

(By Sri. B. Prabhudevaru, Advocate)

AND :

1. The Divisional Controller,
Karnataka State Road Trans-
port Corporation Gulbarga
Division, M.S.K. Mills Road,
Gulbarga.

2. The Presiding Officer,
Labour Court, Gulbarga.

...Respondents

(By Sri. G. Ramakrishna, HGGP
for R-2,
Sri. K. Lakshminarayana Rao
for R-1)

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This writ petition is filed under Articles 226 and 227 of the Constitution of India, praying to modify the award passed by the Labour Court and granting full backwages from the date of dismissal i.e., 15.8.94 till the date of reinstatement together with continuity of service and consequential benefits.

W.P.NO: 1732/1998

BETWEEN :

Karnataka State Road Transport Corporation, Central Offices,
K.H. Road, Bangalore-560 027,
by its Chief Law Officer.

....Petitioner

(By Sri. K. Lakshminarayana Rao
Advocate)

AND :

1st. Sri. Sanganna,
S/o Iswarappa,
Major,
Ex-Conductor, K.S.R.T.C
Gulbarga Depot-I,
Tilgol, Dist: Gulbarga.

2nd. The Presiding Officer,
Labour Court,
Gulbarga.

....Respondent

(By Sri. B. Prabhudevaru, Advocate
for R-1,
Sri. G. Ramakrishna, HCGP for
R-2)

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This writ petition is filed under Articles 226 and 227 of the Constitution of India, praying to quash Annexure-A dt. 23.10.1996 by R.2.

These writ petitions coming on for preliminary hearing in B Group, this day, the Court made the following:

O R D E R

The award made by the Labour Court in I.D. No.45/94 is challenged by the management as also the worker. The worker in question was a conductor. While he was on duty on 08.12.1990 he was operating a bus which was over-crowded with 94 adult passengers including 5 children. It is alleged by the management that the worker had not issued luggage tickets for 75 units. Charges were framed against him and domestic enquiry was conducted. The worker was found guilty of charges and thereafter he was dismissed from service with effect from 15.4.1994. He made an application under Section

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10(4-A) of the I.D. Act, challenging the dismissal. A preliminary issue was framed regarding the validity of the domestic enquiry. The Labour Court found that domestic enquiry is not fair and proper. It therefore called upon the management to lead evidence. The management did not lead evidence but produced documents. On considering the evidence on records the Labour Court held that the worker had not collected the luggage charges of Rs. 67.50 and he was trying to find out the passengers who were carrying the luggage and as the bus was crowded he could not find them out. It was at that stage where the checking officials checked the bus. Therefore it held that punishment of dismissal is disproportionate to the charges and the worker cannot be found guilty.

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2. Pending the dispute interim order came to be granted, whereby the worker was ordered to be reinstated. Now in the final order the Labour Court set aside the order of dismissal and called upon the management to reinstate the worker. In doing so, it held as follows:

" The claimant I Party is entitled for backwages at the rate of 75% of the wages what he was getting at the time of dismissal or 75% of the wages in the current rate whichever is more from the date of granting the interim relief ie., 11.7.94. The claimant is deemed to have been continued in service from the said date. "

3. Mr. Lakshminarayana Rao, learned Counsel for the management has filed W.P.No.1732/98 challenging the award in so far as it relates

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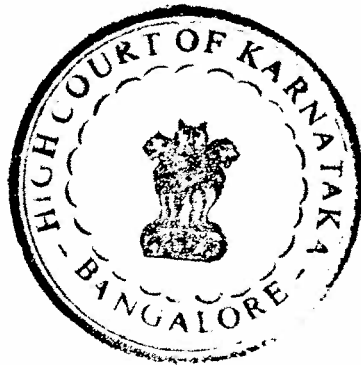
to reinstatement and award of 75% backwages. Whereas, Mr. Prabhu Devaru, learned Counsel on behalf of the worker has challenged the award in W.P.No.2246/98 for the denial of 25% backwages.

4. I have heard respective Counsel. I do not think that the finding of the Labour Court that the charges levelled against the worker is not proved calls for interference. It is in evidence that the worker was trying to find out the passengers to whom the luggage belonged. It is also in evidence that the bus was over crowded and it was at that point of time that the bus was checked. In such circumstances, one cannot say that there was ill motive on the part of the worker in not issuing the luggage tickets. The finding in this behalf does not call for interference.

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5. The further question would be regarding the relief to be granted to the worker. If the worker is not found guilty of charges, necessarily, the dismissal has to be set aside. The Labour Court has rightly done so. Therefore, the further question would be the quantum of backwages to be awarded. The Labour Court has awarded 75% backwages. I modify the same and hold that he is entitled to 75% backwages as he was being paid on the date of dismissal till 11.7.1996. For the subsequent period, he is entitled for full backwages. The denial of continuity of service is set aside. The award is modified in this behalf. Writ petitions are disposed of accordingly.



Sd/-
JUDGE

ksp/-